



August 11, 2016

**VIA ECFS**

Marlene H. Dortch, Esq.  
Secretary  
Federal Communications Commission  
445 12<sup>th</sup> Street, S.W.  
Washington, D.C. 20554

**Re: *Promoting the Availability of Diverse and Independent Sources of Video Programming*, MB Docket No. 16-41**

Dear Ms. Dortch:

It has been widely reported in the media that the Commission is preparing to move forward with a Notice of Proposed Rulemaking from the comments received in this docket. Before moving forward with any new pleading cycle, Newsmax TV urges the Commission to provide confidentiality assurances to independent programmers so that they may fully participate in this, or any future proceeding.

As the Commission is well aware, independent programmers face significant obstacles in gaining carriage, some of which can be highly punitive given the uneven balance of power in carriage negotiations. Among the most omnipresent, is the fear of retribution or reprisal from MVPDs for independent programmers sharing their concerns with regulators and lawmakers. In several recent transactions<sup>1</sup>, the Commission recognized the chilling effect this retaliation can have on the development of a robust and comprehensive record and opted to provide exemptions to the disclosure requirements of the FCC's ex parte rules pursuant to section 1.1204(a)(9).<sup>2</sup>

Should the Commission move forward with a Notice of Proposed Rulemaking in this docket, Newsmax urges that the Commission to again exempt presentations of independent programmers from the "permit but disclose"<sup>3</sup> ex parte rules under the authority provided by section 1.1204(a)(9).<sup>4</sup> It is Newsmax's belief that a full and

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<sup>1</sup> *In the Matter of Applications of AT&T, Inc. and DIRECTV for Consent to Assign or Transfer control of Licenses and Authorizations*, MB Docket 14-90; *In the Matter of Applications of Charter Communications, Inc., Time Warner Cable Inc., and Advance/Newhouse Partnership for Consent to Assign or Transfer Control of Licenses and Authorizations*, MB Docket 15-149 and *In the Matter of Applications of Comcast Corp., Time Warner Cable Inc., Charter Communications, Inc., and SpinCo for Consent to Assign or Transfer Control of Licenses and Authorizations*, MB Docket No. 14-57

<sup>2</sup> 47 CFR 1.1204(a)(9)

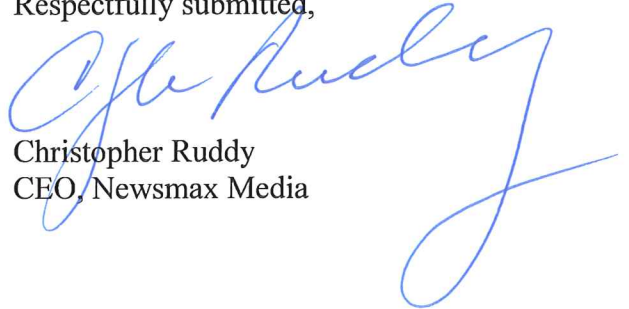
<sup>3</sup> 47 CFR 1.1206

<sup>4</sup> 47 CFR 1.1204(a)(9)

comprehensive record on the treatment of independent programmers demands this heightened level of protection.

Thank you for your consideration.

Respectfully submitted,

A handwritten signature in blue ink, appearing to read "Chris Ruddy", with a long, sweeping flourish extending from the end.

Christopher Ruddy  
CEO, Newsmax Media

Cc: Chairman Tom Wheeler  
Commissioner Jessica Rosenworcel  
Commissioner Mignon Clyburn  
Commissioner Ajit Pai  
Commissioner Michael O’Rielly